



January 27, 2020

**VIA ECF**

The Honorable Jesse M. Furman, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Centre Street, Room 2202  
New York, NY 10007

Re: **MVNY Holdings, LLC, et al v. Double Black Ventures Ventures , LLC, et al.**  
**1:19-cv-10640 (JMF)**

Dear Judge Furman:

I represent the Plaintiffs in the above-captioned matter and am writing to request Your Honor direct the Clerk's office to accept the timely-filed amended pleading ECF 41.

The Court had previously extended the time to file an amended pleading to January 23, 2020. **ECF 37**. On January 22, 2020, the undersigned, after discussions with the Clerk's office to correct the deficiencies noted on the January 14, 2020 filing, Attempt #1, filed the Amended Complaint, Attempt #2. The Clerk's office informed me that party designations in error would be corrected in their office and I should not be concerned. On January 23, 2020, the Clerk's office then rejected the pleadings for failure to correctly designate a Defendant as a Nominal Defendant. On January 23, 2020, the undersigned made the correction and again attempted to file the Amended Complaint. In the meantime, the undersigned had attempted to voluntarily dismiss the action against one of the Defendants. The Clerk directed the effort to the Court who ordered the dismissal. **ECF 40**. However, the Clerk then rejected the Amended Filing for including the dismissed party in the caption, Attempt #3. The order directing the dismissal did not direct the Clerk to amend the caption, **ECF 40<sup>1</sup>**, constraining the undersigned. In order to avoid another rejection for failure to file with a correct caption and upon the correct parties, Plaintiffs filed its Amended Complaint with all parties and with notice of the Order granting dismissal. **ECF 41.2**

The Plaintiffs therefore plead with the Court to direct the Clerk's office to accept their amended pleadings. The undersigned has repeatedly been in contact with the Clerk' office and they stated they would accept the pleading if the Court approved it. The Amended Complaint removes the only federal cause of action, and its acceptance would allow the Court to rule on

---

<sup>1</sup> It should be noted that there is technically a cross-claim against the Dismissed Defendant still outstanding which may have been why the Court did not order the change in caption.



Plaintiffs' letter-motion to remand the action to New York State Supreme Court. **ECF 34**. There is no prejudice to any party as the Defendants have had notice of the exact claims in the amended complaint for almost two weeks now, without any change in the listed causes of action.

As such, we respectfully request the Court direct the Clerk's office to accept the Amended Complaint.

Respectfully submitted,

Kaploun Law, P.C.

/s/ Eliyahu Z. Kaploun  
Eliyahu Z. Kaploun

cc: All Counsel of Record via ECF

To settle any confusion, Plaintiffs are granted leave to refile the amended complaint, which will be considered timely filed *nunc pro tunc*. **By January 30, 2020**, Plaintiffs shall refile the amended complaint listing only the remaining parties. The Clerk of Court is directed to then accept the amended complaint as timely filed.

Defendants shall file their letter indicating their views on remand in light of the amended complaint by **January 31, 2020**. *See* ECF No. 37.

The Clerk of Court is directed terminate ECF No. 42. **SO ORDERED.**

A handwritten signature in black ink, appearing to read "Eliyahu Z. Kaploun".

January 29, 2020